

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND FAIRPOINT) CASE NO. USW-T-00-13
COMMUNICATIONS, INC. FOR APPROVAL OF)
THE SECOND AND THIRD AMENDMENTS TO A)
WIRELINE INTERCONNECTION AGREEMENT)
PURSUANT TO 47 U.S.C. § 252(e).)

IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND ADVANCED) CASE NO. USW-T-98-22
TELCOM, INC. FOR APPROVAL OF THE)
SECOND AND THIRD AMENDMENTS TO AN)
EXISTING WIRELINE INTERCONNECTION)
AGREEMENT PURSUANT TO 47 U.S.C. § 252(e).)

IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND DSLNET) CASE NO. USW-T-99-19
COMMUNICATIONS, LLC FOR APPROVAL OF)
THE FOURTH AND FIFTH AMENDMENTS TO)
AN EXISTING WIRELINE INTERCONNECTION)
AGREEMENT PURSUANT TO 47 U.S.C. § 252(e).)

IN THE MATTER OF THE JOINT APPLICATION)
OF VERIZON NORTHWEST, INC. AND) CASE NO. VZN-T-01-1
WASHINGTON RSA NO. 8, LP FOR APPROVAL)
OF A WIRELESS INTERCONNECTION)
AGREEMENT PURSUANT TO 47 U.S.C. § 252(e).)

IN THE MATTER OF THE JOINT APPLICATION)
OF VERIZON NORTHWEST, INC. AND MAX-TEL) CASE NO. VZN-T-01-2
COMMUNICATIONS, INC. FOR APPROVAL)
OF A WIRELINE INTERCONNECTION)
AGREEMENT PURSUANT TO 47 U.S.C. § 252(e).)

IN THE MATTER OF THE JOINT APPLICATION)
OF QWEST CORPORATION AND MULTIBAND) CASE NO. USW-T-99-30
COMMUNICATIONS, LLC. FOR APPROVAL OF)
THE FIRST AND SECOND AMENDMENTS TO A)
WIRELINE INTERCONNECTION AGREEMENT) ORDER NO. 28656
PURSUANT TO 47 U.S.C. § 252(e).)

IN THE MATTER OF THE APPLICATION OF)	
QWEST CORPORATION AND PAC-WEST)	CASE NO. QWE-T-01-2
TELECOM, INC. FOR APPROVAL OF A)	
WIRELINE INTERCONNECTION)	
AGREEMENT PURSUANT TO 47 U.S.C. § 252(e))	
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IN THE MATTER OF THE APPLICATION OF)	
QWEST CORPORATION AND WASHINGTON)	CASE NO. QWE-T-01-1
RSA NO. 8 LP FOR APPROVAL OF A TYPE 2)	
WIRELESS INTERCONNECTION)	
AGREEMENT PURSUANT TO 47 U.S.C. § 252(e))	
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In these cases, the Commission is asked to approve both new interconnection agreements and amendments to agreements which were previously approved by the Commission.

BACKGROUND

Under the provisions of the federal Telecommunications Act of 1996, interconnection agreements must be submitted to the Commission for approval. 47 U.S.C. § 252(e)(1). The Commission may reject an agreement adopted by negotiations only if it finds that the agreement: (1) discriminates against telecommunications carrier not a party to the agreement; or (2) implementation of the agreement is not consistent with the public interest, convenience and necessity. 47 U.S.C. § 252(e)(2)(A). As the Commission recently noted in Order No. 28427, companies voluntarily entering into interconnection agreements “may negotiate terms, prices and conditions that do not comply with either the FCC rules or with the provisions with Section 251(b) or (c).” Order No. 28427 at 11 (emphasis original). This comports with the FCC’s statement that “a state commission shall have authority to approve an interconnection agreement adopted by negotiation even if the terms of the agreement do not comply with the requirements of [Part 51].” 47 C.F.R. § 51.3.

THE CURRENT APPLICATIONS

The Commission has been asked to approve these interconnection agreements and amendments to existing interconnection agreements. These agreements are discussed in greater detail below.

1. Qwest Corporation and FairPoint Communications, Inc. (Case No. USW-T-00-13). In this case, the parties have requested the Commission to approve the Second and Third Amendments to the Wireline Interconnection Agreement approved by the Commission on July

17, 2000. Order No. 28444. The Second Amendment is made in order to add the terms, conditions and rates for Unbundled Dedicated Interoffice Transport and Unbundled Dark Fiber. The Third Amendment is made in order to add rates, terms and conditions for Line Sharing and Enhanced Extended Loop to the original Agreement.

2. Qwest Corporation and Advanced TelCom, Inc. (Case No. USW-T-98-22). In this Application, the parties request that the Commission approve the Second and Third Amendments to an existing Wireline Interconnection Agreement approved by the Commission on January 26, 1999. Order No. 27892. The Second Amendment adds terms and conditions for local number portability arrangements. The Third Amendment adds Unbundled Network Elements Combinations to the original Agreement.

3. Qwest Corporation and DSLnet Communications, LLC. (Case No. USW-T-99-19). In this Application, the parties request that the Commission approve the Fourth and Fifth Amendments to an existing Wireline Interconnection Agreement approved by the Commission on October 19, 1999. Order No. 28180. The Fourth Amendment is made in order to replace in its entirety, Section 8.2.4 of the original Agreement which addresses Unbundled Loops. The Fifth Amendment is made in order to replace the Interim Line Sharing Agreement the parties entered into on May 3, 2000. This Amendment adds terms, conditions and rates for Line Sharing.

4. Verizon Northwest, Inc. and Washington RSA No. 8, LP. (Case No. VZN-T-01-1). In this case, the parties request that the Commission approve a wireless interconnection agreement. Washington RSA No. 8 has chosen to adopt the terms and conditions of the existing arbitrated interconnection agreement between AT&T Wireless Service, Inc. and Verizon. *See* Case No. GTE-T-99-3, Order No. 28229.

5. Verizon Northwest, Inc. and Max-Tel Communications, Inc. (Case No. VZN-T-01-2). In this case, the parties request that the Commission approve a wireline interconnection agreement. The terms and conditions of this agreement are similar to those previously approved by the Commission. *See* Case No. VZN-T-00-3, Order No. 28577. However, Max-Tel does not currently have a valid Certificate of Public Convenience and Necessity authorizing them to offer the services covered by its interconnection agreement with Verizon. Max-Tel did file an Application for a Certificate. However, the Commission conditioned the issuance of this Certificate on the Company posting a \$5,000 performance bond and filing its final tariff. *See*

Case No. GNR-T-97-2, Order Nos. 27018 and 27122. Max-Tel has never satisfied these conditions, thus it still has not obtained a valid Certificate.

6. Qwest Corporation and Multiband Communications, LLC. (Case No. USW-T-99-30). In this Application, the parties request that the Commission approve the First and Second Amendments to the existing Wireline Interconnection Agreement for the state of Idaho. The First Amendment is made in order to replace the Line Sharing Agreement entered into by the parties in April 2000. It replaces rates, terms and conditions in the original Agreement. The Second Amendment is made to replace both the terms and conditions regarding Line Sharing that are stated in the original Agreement and the First Amendment. To the extent Multiband is intending to offer local exchange service through its interconnection agreement with Qwest it does not have a valid Certificate of Public Convenience and Necessity. To the extent Multiband is offering non-basic local exchange services it has not complied with the requirements of *Idaho Code* §§ 62-604 and 62-606.

7. Qwest Corporation and Pac-West Telecom, Inc. (Case No. QWE-T-01-2). In this case, the parties request that the Commission approve a wireline interconnection agreement. Pac-West has chosen to adopt the terms and conditions of the existing interconnection agreement between AT&T Corporation and Qwest Corporation f.k.a. U S WEST Communications, Inc. Case Nos. USW-T-96-15 and ATT-T-96-1.

8. Qwest Corporation and Washington RSA No. 8, LP (Case No. QWE-T-01-1). In this Application, the parties request that the Commission approve a Type 2 Wireless Interconnection Agreement for the state of Idaho. The rates and terms of the interconnection agreement are similar to those previously approved by the Commission. *See* Case No. USW-T-97-7, Order No. 27039.

STAFF ANALYSIS AND RECOMMENDATION

The Staff has reviewed these Applications and did not find that any terms and conditions to be discriminatory or contrary to the public interest. Staff believes that the interconnection agreements and the amendments to interconnection agreements are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff believes that the Applications merit the Commission's approval.

COMMISSION DECISION

Under the terms of the Telecommunications Act, interconnection agreements must be submitted to the Commission for approval. 47 U.S.C. § 252 (e)(1). The Commission's review is limited, however. The Commission may reject an agreement adopted by negotiation only if it finds that the agreement discriminates against a telecommunication carrier not a party to the agreement or implementation of the agreement is not consistent with the public interest, convenience and necessity. *Id.* Based upon our review of the Application, the Staff's recommendation and on the fact no other person commented on these Applications, the Commission finds that the above interconnection agreements and amendments to previously approved interconnection agreements are consistent with the public interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that these Applications should be approved.

ORDER

IT IS HEREBY ORDERED that the interconnection agreements and amendments to interconnection agreements discussed above are approved. Terms of the agreements that are not already in effect shall be effective as of the date of this Order.

IT IS FURTHER ORDERED that the Second and Third Amendments to the existing Interconnection Agreement between Qwest Corporation and FairPoint Communications, Inc., in Case No. USW-T-00-13, are approved.

IT IS FURTHER ORDERED that the Second and Third Amendments to an existing Wireline Interconnection Agreement between Qwest Corporation and Advanced TelCom, Inc., in Case No. USW-T-98-22, are approved.

IT IS FURTHER ORDERED that the Fourth and Fifth Amendments to an existing Wireline Interconnection Agreement between Qwest Corporation and DSLnet Communications, LLC, in Case No. USW-T-99-19, are approved.

IT IS FURTHER ORDERED that the Wireless Interconnection Agreement between Verizon Northwest, Inc. and Washington RSA No. 8, LP, in Case No. VZN-T-01-1, is approved.

IT IS FURTHER ORDERED that the Resale Interconnection Agreement between Verizon Northwest, Inc. and Max-Tel Communications, Inc., in Case No. VZN-T-01-2, is approved. However, Max-Tel may not begin to provide service in Idaho until it has secured a

valid Certificate of Public Convenience and Necessity from the Commission by posting a \$5,000 performance bond and filing its final tariff. *See* Order Nos. 27018 and 27122.

IT IS FURTHER ORDERED that the First and Second Amendments to the existing Wireline Interconnection Agreement between Qwest Corporation and Multiband Communications, LLC, in Case No. USW-T-99-30, are approved. Approval of this Agreement does not negate the Company's responsibilities to obtain a Certificate of Public Convenience and Necessity if it is offering local exchange services or complying with *Idaho Code* §§ 62-604 and 62-606 if it only provides other telecommunications services.

IT IS FURTHER ORDERED that the Wireline Interconnection Agreement between Qwest Corporation and Pac-West Telecom, Inc., in Case No. QWE-T-01-2, is approved.

IT IS FURTHER ORDERED that the Type 2 Wireless Interconnection Agreement between Qwest Corporation and Washington RSA No. 8, LP, in Case No. QWE-T-01-1, is approved.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in these Case Nos. USW-T-00-13, USW-T-98-22, USW-T-99-19, VZN-T-01-1, VZN-T-01-2, USW-T-99-30 QWE-T-01-2, QWE-T-01-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in these cases. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* §§ 61-626 and 62-619.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 26th
day of February 2001.


DENNIS S. HANSEN, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


PAUL KJELLANDER, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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